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1 UNITED STATES DISTRICT COURT
2 SOUTHERN DISTRICT OF NEW YORK

3 UNITED STATES OF AMERICA,

4 v.

20 Cr. 412 (AT)

5 TIMOTHY SHEA,

6 Conference

7 Defendant.

8 -----x

9 New York, N.Y.

May 6, 2022

4:00 p.m.

10
11 Before:

12 HON. ANALISA TORRES,

13 District Judge

14 APPEARANCES

15 DAMIAN WILLIAMS

16 United States Attorney for the
Southern District of New York

17 ROBERT B. SOBELMAN

18 ALISON MOE

NICOLAS ROOS

Assistant United States Attorney

19 JOHN C. MERINGOLO

20 ANJELICA B. CAPPELLINO

21 CLARA KALHOUS

Attorneys for Defendant

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(The Court and all parties present remotely)

THE COURT: Good afternoon. We're here in the matter of United States v. Timothy Shea.

Counsel, please make your appearances.

MR. SOBELMAN: Robert Sobelman, Alison Moe and Nicholas Roos for the United States. Good afternoon, your Honor.

MS. CAPPELLINO: Good afternoon, your Honor. Anjelica Cappellino, John Meringolo and Clara Kalhous on the telephone line for defendant Timothy Shea, who is also present.

THE COURT: The videoconference is open to the public just as a courtroom would be, but you are not permitted to rebroadcast or record the proceeding.

I understand that Mr. Shea has agreed to appear by videoconference; is that correct?

MS. CAPPELLINO: Yes, your Honor.

THE COURT: Mr. Shea, you know that you would be permitted to have an in-person appearance, but you have agreed to have this matter heard by videoconference.

Is that correct, Mr. Shea?

THE DEFENDANT: Yes, ma'am.

THE COURT: I'm going to first address the government's motion *in limine*.

First, the government asks the Court to preclude defendant from offering evidence in support of the argument

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1 that the victims of the alleged scheme are at fault because
2 they acted negligently or gullibly.

3 Defendant contends that he will not advance a "victim
4 blaming" defense. But, he argues that he should not be
5 precluded from questioning alleged victims about their dealings
6 with defendant or his alleged co-conspirators, and their
7 understanding of the way in which their donations would be
8 used. ECF No. 171 at 1-3.

9 Because defendant disclaims any intention of asserting
10 a defense based on the victims' blameworthiness, the
11 government's motion is denied as moot. Any concerns about the
12 admissibility of specific questions shall be addressed at
13 trial.

14 Second, the Government seeks to preclude Defendant
15 from offering evidence or argument concerning the potential
16 punishment he may face if convicted. ECF No. 166 at 5.

17 Again, defendant represents that he "does not intend
18 to raise for the jury the potential punishment that he is
19 facing if convicted. " But he argues that he should be allowed
20 to raise the issue of the possible sentences faced by
21 cooperating witnesses, some of whom may have pleaded guilty to
22 the offenses with which he is charged. ECF No. 171 at 3.

23 Defendant shall be permitted to elicit testimony
24 related to the potential sentences faced by cooperating
25 witnesses to the extent such testimony bears on their reasons

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1 for testifying at trial. But defendant may not make any
2 arguments related to his potential punishment.

3 Accordingly, the Government's motion is granted.

4 Third, the Government requests that the Court preclude
5 defendant from offering evidence that would "invite
6 nullification." According to the Government, such evidence
7 would include testimony about aspects of defendant's background
8 that "may tend to elicit the jury's sympathy," and evidence
9 about Stephen Bannon's pardon, which the government argues may
10 "invite the jury to engage in impermissible speculation." ECF
11 No. 166 at 7-9.

12 As for evidence about defendant's background,
13 defendant contends that he should be permitted to provide
14 relevant background evidence if he chooses to testify, and that
15 he should be allowed to present relevant evidence about his
16 wife if she is referenced during the trial. ECF No. 171 at 6,
17 7.

18 Based on the parties' submissions, the Court cannot
19 conclude at this time that evidence related to defendant's
20 background would be "clearly inadmissible on all potential
21 grounds. *United States v. Ozsusamlar*, 428 F. Supp. 2d 161, 164
22 (S.D.N.Y. 2006). Any concerns about the admissibility of such
23 evidence shall be addressed at trial.

24 As for evidence related to Bannon's pardon, defendant
25 contends that the pardon will be relevant because defendant

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1 intends to call Bannon to testify at trial. Moreover defendant
2 argues that such evidence will not invite jury nullification.
3 ECF No. 171 at 6 to 7.

4 The Court agrees with defendant that evidence related
5 to Bannon's pardon may be admissible if he testifies because
6 such evidence may help avoid juror confusion about why Bannon
7 is no longer a defendant in this case. Accordingly, the
8 Government's motion is denied.

9 Fourth, the Government asks the Court to preclude
10 defendant from offering any evidence and argument concerning
11 the Government's motives in prosecuting him and any claim that
12 he is being selectively prosecuted. ECF No. 166 at 5 to 7.
13 defendant represents that he will not assert a claim of
14 selective prosecution, but he argues that he should be
15 permitted to reference the fact that Bannon received a pardon
16 and that individuals associated with the case may have some
17 name recognition where defendant does not. ECF No. 171 at 4 to
18 5.

19 Because Defendant disclaims raising a selective
20 prosecution defense, this aspect of the Government's motion is
21 denied as moot. But defendant shall be precluded from offering
22 any evidence intended to attack the government's motives for
23 charging him in this matter. Accordingly, this aspect of the
24 government's motion is granted. Moreover evidence related to
25 Bannon's pardon may be admissible for the reasons already

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1 stated, and the Court shall address the admissibility of
2 questions related to "name recognition" should the issue arise
3 at trial.

4 I will now turn to Defendant's motions.

5 Defendant's first motion asks the Court to preclude
6 the government from introducing evidence that defendant
7 conspired with his co-defendant, Brian Kolfage, and defendant's
8 wife, to create fraudulent backdated documents after they
9 learned of the grand jury's investigation.

10 Defendant argues (1) that the evidence is irrelevant
11 to the charged crimes in the Indictment filed in August 2020,
12 and (2) that the Government will not be able to introduce
13 evidence related to the documents because communications
14 between defendant and his wife are protected by the spousal
15 communications privilege, and co-conspirator testimony cannot
16 be introduced without first establishing that defendant
17 participated in a conspiracy. ECF No. 170 at 6 to 7.

18 After the filing of Defendant's motions, the
19 government added new charges in a Superseding Indictment dated
20 April 21, 2022, which included charges for "falsification of
21 records" by means of backdating certain documents. ECF No.
22 179. Accordingly, defendant's argument as to the relevance of
23 the backdated documents is rejected and his motion is denied as
24 moot.

25 As for the other aspects of Defendant's motion, the

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1 government contends that communications between defendant and
2 his wife are not protected by the spousal communication
3 privilege because those communications were designed to further
4 criminal activity. The government also argues that the Court
5 may address any concerns about defendant's participation in a
6 conspiracy at trial by conditionally admitting any objected-to
7 exhibits or statements and then accepting them into evidence
8 after the government has proven the existence of a conspiracy.
9 ECF No. 173 at 5 to 6.

10 The Court agrees with the Government that
11 communications between defendant and his wife may be admissible
12 if they included third parties, or, under the "joint
13 participation exception" to the spousal communication
14 privilege, to the extent that defendant's wife is testifying
15 willingly concerning their joint criminal activities. *United*
16 *States v. Estes*, 793 F.2d 465, 468 (2d Cir. 1986).

17 Moreover, the Court also agrees that it should not
18 preclude the government from offering co-conspirator evidence
19 at this time. The Court shall first admit such evidence
20 conditionally, and then, if the government establishes the
21 existence of a conspiracy and defendant's participation in it
22 at trial, the evidence shall be admitted.

23 Accordingly, defendant's motion is denied.

24 Second, defendant asks the Court to preclude the
25 government from offering evidence that defendant and Kolfage

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1 allegedly misappropriated \$38,500 from We Build the Wall
2 through an alleged loan to Winning Energy, LLC, an Energy drink
3 business owned by Shea, because it does not constitute direct
4 evidence of the charged conspiracies. ECF No. 170 at 7 to 9.

5 The Government contends that the misappropriation of
6 the money is admissible as direct proof of the wire fraud
7 conspiracy because, as the superseding indictment alleges
8 defendant secretly misappropriated We Build the Wall's funds
9 for Winning Energy, which establishes that defendant and his
10 co-conspirators acted in a manner contrary to the
11 representations made to the donors. Moreover, this evidence is
12 direct proof of the honest services fraud component of Count
13 One in the superseding indictment because it would show that
14 defendant conspired with Kolfage to divert money from We Build
15 the Wall to Winning Energy, and that Kolfage received a
16 kickback from Winning Energy. ECF No. 173 at 7 to 8.

17 The Government shall not be precluded from offering
18 evidence that money was transferred from We Build the Wall to
19 Winning Energy. Such evidence supports the charges in the
20 superseding indictment. Accordingly, defendant's motion is
21 denied.

22 Third, defendant requests that the Court preclude the
23 government from introducing evidence that defendant failed to
24 disclose some of his income to the IRS. Defendant argues that
25 such evidence is inadmissible because he has submitted a plea

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1 of not guilty and, when a defendant unequivocally relies on a
2 defense that he did not do the charged act at all... evidence
3 of other acts is not admissible for the purpose of proving the
4 intent or knowledge with which he acted. Additionally,
5 defendant contends that filing a tax return with missing income
6 is irrelevant because it does not indicate the source of the
7 alleged income. ECF No. 170 at 5, 9 to 11.

8 The government argues that defendant's failure to
9 report income from We Build the Wall is admissible because it
10 shows that he understood that this money was not a legitimate
11 source of income, and that, therefore, it shows his intent to
12 defraud. Moreover, the government contends that this evidence
13 is relevant to rebut the anticipated defense that defendant
14 believed his transactions were legitimate and to rebut any
15 claims of accident or mistake.

16 The government also asserts that defendant has not
17 unequivocally denied his involvement in the financial
18 transactions at issue. And the government contends that the
19 evidence is not inadmissible under Rule 403 because it is not
20 more salacious than the charged crimes. ECF No. 173 at 9 to
21 12.

22 The Court agrees with the government that evidence
23 related to defendant's tax records may be admitted. Such
24 evidence tends to show that Defendant knew the funds he
25 received were illegitimate and that he took pains to conceal

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1 them. See *United States v. Bergstein*, 788 F. App'x 742, 745
2 (2d Cir. 2019). Moreover, the mere fact that defendant entered
3 a plea of not guilty does not amount to a claim that he did not
4 commit the acts that constitute the charged offenses. See
5 *United States v. Paulino*, 445 F.3d 211, 221 to 22 (2d Cir.
6 2006). And defendant has not otherwise shown that his
7 knowledge or intent are not in dispute. Additionally, the
8 Court agrees that such evidence should not be excluded under
9 Rule 403 because it is not "more sensational or disturbing"
10 than the charged crime, a factor considered important in prior
11 cases. See *United States v. Roldan-Zapata*, 916 F.2d 795, 804
12 (2d Cir. 1990).

13 Accordingly, defendant's motion is denied.

14 Fourth, defendant asks the Court to preclude the
15 government from introducing evidence related to a \$59,700
16 COVID-19 economic relief loan he obtained for Ranch Property
17 Marketing and Management, which I shall refer to as RPMM, the
18 entity the Government alleges is a shell company set up by
19 defendant to launder money to Kolfage.

20 Defendant argues that the loan was legitimately
21 obtained and is irrelevant to the charged conduct, and that he
22 does not dispute his ownership of RPMM. And, he contends that
23 attempts by the government to show that the loan was obtained
24 through misrepresentations would create undue delay and
25 confusion under Rule 403, and would constitute impermissible

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1 404(b) evidence. ECF No. 170 at 11 to 13.

2 The government argues that the loan application is
3 admissible because it is direct proof that defendant controls
4 RPMM. And although defendant asserts that the issue of his
5 ownership of RPMM will not be in dispute there is presently no
6 agreement between the parties that defendant owns, operates,
7 and controls the funds of RPMM. Moreover, the government
8 contends that evidence related to the loan shows that RPMM was
9 not a legitimate business and that the defendant used it as a
10 vehicle for committing fraud. ECF No. 173 at 12 to 13.

11 Although the Court agrees that the Government may
12 offer the loan application as evidence of defendant's ownership
13 and control over RPMM, the Court holds that the government may
14 not introduce evidence that the loan was obtained through
15 misrepresentations or fraud. Such evidence does not properly
16 support an inference that defendant knowingly participated in
17 the charged fraudulent scheme because the "other act is not
18 sufficiently similar to the conduct at issue." *United*
19 *States v. Gordon*, 987 F.2d 902, 909 (2d Cir. 1993).

20 Accordingly, defendant's motion is granted in part and
21 denied in part.

22 Fifth, defendant asks the Court to preclude the
23 government from offering evidence that he told a witness that
24 he believed that his co-defendant, Andrew Badolato, was
25 cooperating with the government and expressed that Badolato

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1 should "watch his back" because defendant "knows people in a
2 New York mafia crime family." ECF No. 170 at 13 to 15.

3 In a May 5, 2022 letter submitted to the Court under
4 seal, the government states that it will not seek to offer

5 Testimony related to this alleged threat at trial.

6 Accordingly, defendant's motion is denied as moot.

7 Sixth, defendant asks the Court to preclude the
8 government from offering the testimony of Dustin Palmer whom
9 the Government intends to call as an expert "in money
10 laundering and compliance with anti-money laundering
11 regulations." Defendant contends that Palmer's testimony
12 should not be admitted because it is an inappropriate subject
13 matter for expert testimony and because the government did not
14 provide adequate notice. ECF No. 183.

15 The Government argues that Palmer's testimony is
16 admissible because it is about "widely-recognized money
17 laundering typologies" and will assist the jury in
18 understanding the evidence and determining important facts in
19 issue and because they provided sufficient notice. ECF No.
20 200.

21 The Court agrees with the Government that Palmer's
22 testimony is admissible. Courts in this Circuit have routinely
23 held that experts can testify about money laundering techniques
24 in criminal cases involving a money laundering charge. See,
25 e.g., *United States v. Monaco*, 199 F.3d 1324, 1999 WL 980946,

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1 at *2 to 3 (2d Cir. 1999); *United States v. Nektalov*, No. 03
2 Cr. 828, 2004 WL 1469487, at *3 (S.D.N.Y. June 30, 2004).

3 The Government intends to offer Palmer's testimony to
4 provide the jury with context with which it can consider the
5 evidence in this case. ECF No. 200 at 7. Such background
6 information will be helpful to the jury because the mechanics
7 of money laundering, particularly in white collar cases, are
8 beyond the understanding of the average juror. See *Monaco*,
9 1999 WL 980946, at *2 to 3. Moreover, the government asserts
10 that it will not ask Palmer about defendant's conduct or other
11 evidence introduced at trial, ECF No. 200 at 9, which
12 alleviates concerns of Palmer becoming a summary witness. See
13 ECF No. 183 at 4 to 5.

14 The Court also does not find that the probative value
15 of Palmer's testimony will be substantially outweighed by
16 unfair prejudice or juror confusion because there is no
17 indication that Palmer will "stray from the scope of his
18 expertise," see *United States v. Dukagjini*, 326 F.3d 45, 54 (2d
19 Cir. 2003), and the Court sees no reason why general testimony
20 about money laundering techniques will prejudice defendant. To
21 the extent any issues arise at trial, they may be addressed by
22 a limiting instruction.

23 Additionally, the Court rejects the argument that the
24 government provided insufficient notice of Palmer's testimony.
25 The government's April 17, 2022 notice describes Palmer's

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1 qualifications, sets forth the subjects about which he is
2 expected to testify, and provides a summary of his testimony.
3 See ECF No. 200 Exhibit 1. The Court considers this sufficient
4 under Federal Rule of Criminal Procedure 16(a)(1)(G). See
5 *United States v. Kidd*, 385 F. Supp. 3d 259, 262 to 63 (S.D.N.Y.
6 2019). But to the extent the April 17 notice contained any
7 deficiencies, the government's submission in opposition to
8 defendant's motion alleviates these concerns.

9 Accordingly, defendant's motion is denied.

10 Trial shall commence on Monday, May 16th. On Monday
11 through Friday, court will be in session from 9:00 a.m. to
12 5:00 p.m. with a break for lunch between one and 2:00 o'clock.

13 Do the parties anticipate that the trial will carry
14 over into the following week?

15 MR. SOBELMAN: Your Honor, it likely will. The
16 government is hopeful that we will rest the first week. But it
17 is unlikely that any defense case, closings, charge conference
18 would be able to be accomplished within that week. Although we
19 are focused on slimming our case down as much as we can.

20 THE COURT: Does the defense have anything to add?

21 MR. MERINGOLO: JUDGE, we haven't made a decision as
22 yet of whether we are going to put a case on. If we did put a
23 case on, we would not need more than a day. However, if the
24 defendant did testify, it may go over a day just because of the
25 cross-examination, but I don't think we would need more than a

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1 day.

2 MR. SOBELMAN: Your Honor, I may add that my estimate
3 is conditioned on us being able to finalize the stipulations
4 that we began discussing with the defense. If for some reason
5 we can't reach agreement on some or all of those, we anticipate
6 the trial to be substantially longer than the current estimate.

7 THE COURT: Well, if you should not reach agreement on
8 reasonable, typical stipulations, please let me know.

9 MR. MERINGOLO: Yes, Judge. Seven of the 11, I think
10 we have agreed. One where we're consenting to venue we're not
11 going to agree, things like that. We're not going to be
12 unreasonable. We've been trying cases in this courthouse for
13 20 years and we have never been unreasonable. But we're not
14 going to just give them the venue. We just can't do that.

15 THE COURT: Are there any further applications at this
16 time?

17 MR. MERINGOLO: From the defense, your Honor, we've
18 been speaking -- actually, today, I was in court for three
19 hours, unfortunately -- your Honor's order of us turning over
20 Rule 16, the Rule 16 we would have, we don't have any other
21 Rule 16 but for what the government has given us in their
22 Rule 16 discovery. So do we have to reproduce everything that
23 they've given us? I mean, they have given it to us and we're
24 not going to give them anything else. Maybe there's a few
25 pictures from an investigator going down to the wall, but I

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1 think we're going to stipulate to the website of the wall, so I
2 don't think that will be relevant, but I'll turn them over.

3 THE COURT: Mr. Sobelman.

4 MR. SOBELMAN: Your Honor, we're not asking that the
5 defense be ordered to just simply produce back to us items we
6 produced in discovery. We would ask that in advance of
7 trial -- Monday, ideally -- they provide marked exhibits of the
8 items they intend to offer at trial, whether they're from our
9 discovery productions or not.

10 MR. MERINGOLO: Judge, we just got the rulings.
11 Specifically for the loan and the \$38,000 We Build A Wall loan,
12 so I think the strategy and certain exhibits, those will
13 actually be put in. It changes a part of our strategy. Do we
14 know exactly everything?

15 I mean, we don't know the witnesses we're going to
16 call. We don't know the exhibits. It's just hard -- without
17 seeing the government's exhibits, it's very hard to say, okay,
18 if the government gave us exhibit that was sent at 9:00 a.m., I
19 want exhibit that was replied to at 10:00 a.m. It's just
20 without seeing their exhibits, we're actually doing things in a
21 vacuum.

22 MR. SOBELMAN: Your Honor, we intend to produce our
23 preliminary set of exhibits today. We're not asking that they
24 produce theirs before ours are produced, of course. But we do
25 think a deadline of what they do intend to offer at the time of

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1 early next week would make sense. But of course, they can add
2 as they might wish to revise their set of exhibits, in the same
3 way that we do up to and sometimes during trial. But we would
4 ask that the defense act in good faith to give us advanced
5 notice so that if there's issues that we need to flag for the
6 Court or potentially even brief, we're able to do that in
7 advance of trial and not have to do that during trial.

8 THE COURT: When can the defense hand over its
9 exhibits?

10 MR. MERINGOLO: Well, I'm sure we're going to get
11 their exhibits late tonight, so we will start tomorrow morning,
12 Judge. At latest -- if it could be on a rolling basis -- at
13 latest, say, Wednesday afternoon.

14 THE COURT: That's acceptable. Wednesday afternoon is
15 acceptable.

16 MR. MERINGOLO: And we will send our own stipulations
17 on Monday, Judge.

18 THE COURT: All right, then.

19 MR. SOBELMAN: Your Honor, I have a couple of other
20 items to raise, if that's all right.

21 THE COURT: Yes.

22 MR. SOBELMAN: Just briefly.

23 First, with respect to one of your Honor's rulings
24 with regard to the defendant's family background. The
25 government's understanding is that you reserved judgment on

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1 whether evidence of that sort might be admissible depending on
2 how the trial goes and whether Mr. Shea decides to testify.
3 The government would ask that the defense be instructed not to
4 include any of those facts in the opening statement, in light
5 of the fact that your Honor has reserved on whether that
6 evidence is admissible.

7 THE COURT: Does the defense intend to bring out
8 background information that is atypical?

9 MR. MERINGOLO: No, Judge. We have never, never done
10 that. I don't want to open the doors to a character case if I
11 don't put the defendant on the stand. I mean, is Mr. Shea
12 married to Amanda Shea? The answer is yes.

13 I mean, am I going to be precluded from doing that?
14 Is he from -- when they don't see his family, I'll say Mr. Shea
15 lives in Colorado, I'm going to say that in the opening,
16 because when they don't see anybody in the galley, they'll
17 think that no one is supporting this guy.

18 MR. SOBELMAN: Your Honor, we have no objection to the
19 fact that he's married to Amanda Shea or he lives in Colorado.
20 What we're hoping to avoid is anything about his children, his
21 parents, his faith, his community service, things that really
22 will have no bearing and we don't anticipate will come out at
23 the trial and that we think should be fronted for the Court
24 before they're put before the jury in any way.

25 MR. MERINGOLO: Judge, I don't know his faith, I don't

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1 know if he does community service, so I won't say anything.

2 THE COURT: Just keep it to --

3 MR. SOBELMAN: Sorry, your Honor. Defense counsel
4 conspicuously just left out reference his kids.

5 MR. MERINGOLO: Judge, everything seems to be so
6 literal. We won't talk about his kids. If Mr. Shea testifies,
7 I will say, are you married, yes, do you have any children,
8 like everyone else in the world on direct that testifies would
9 say.

10 THE COURT: Right. Those are the normal things that
11 would be elicited. It would be not normal to ask him whether
12 he had been in the Boy Scouts, something that is irrelevant.

13 MR. MERINGOLO: No, Judge.

14 THE COURT: Anything further?

15 MR. SOBELMAN: Yes, your Honor.

16 With respect to Mr. Bannon's pardon, I have asked a
17 similar question, which is unless and until Mr. Bannon takes
18 the stand, we would ask that there be no reference to the fact
19 that he was part of the trial, including in the defense opening
20 statement.

21 MR. MERINGOLO: Judge, we will not address
22 Mr. Bannon's pardon unless Mr. Bannon testifies.

23 MR. SOBELMAN: Your Honor, let me just look at my
24 list. Sorry, two other items.

25 First is we inquired earlier today, but didn't have a

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1 chance to connect with defense counsel, and he suggested
2 raising with the Court when the defense intends to provide a
3 witness list and when the defense intends to provide any
4 Rule 26.2 materials, which like defense exhibits would be
5 helpful I think for the parties and the Court for us to have
6 these things in advance of trial so that if there are issues,
7 we can raise them in a timely manner.

8 MR. MERINGOLO: By Monday, we'll let the government
9 know if we're going to call an expert. Judge, it's unlikely
10 the defense is going to call an expert.

11 The witness list, Judge, we don't even have their
12 witness list. We may call people that they turned over on the
13 3500 material. We have seen certain witnesses in there that I
14 may want to call. But I don't have their witness list, so how
15 can I give them my witness list?

16 MR. SOBELMAN: Sorry, Mr. Meringolo, maybe the
17 disclosures were unclear, but the testifying witness 3500 was
18 our witness list at the time that we produced it and
19 nontestifiers are people that are not on our witness list at
20 the time we produced it. If at any time you want an update,
21 just let us know and we'll be glad to provide an update.

22 MR. MERINGOLO: Yes, they can provide an update.

23 Judge, when we will know -- for the defense as well as
24 the prosecutor -- when will we know who will be the first
25 witness, who will be the second witness? Will we just know the

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1 night before?

2 THE COURT: Mr. Sobelman, when do you plan to tell
3 them?

4 MR. SOBELMAN: We're happy to confer with the defense.
5 They haven't asked us this kind of information. As your Honor
6 saw from the papers, there hasn't been as much communication
7 between the parties as there might have been. We are happy to
8 answer any questions the defense has.

9 MR. MERINGOLO: Judge, there's been the same amount of
10 communication as there's been for my other 250 federal cases.
11 There's nothing that we're doing. We're not trying to hide
12 evidence or anything to that matter.

13 THE COURT: Is that it?

14 MR. MERINGOLO: That's it, Judge. Thank you so much.

15 MR. SOBELMAN: The government would ask that the
16 defendant be allocuted on the fact that he received a plea
17 offer from the government on March 25th, 2022, that he read it,
18 discussed it with his counsel and declined to accept it.

19 THE COURT: When is it that you want this allocution
20 to take place?

21 MR. SOBELMAN: Your Honor could do that right now or
22 if your Honor prefers, it could happen at a later time before
23 the trial. We just want to make sure it occurs before the
24 trial begins.

25 THE COURT: My preference is that that should be done

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1 in person.

2 MR. SOBELMAN: That's one of the reasons we had hoped
3 to have this in person, but we're happy to have it done at a
4 later date if that's what the Court prefers.

5 Your Honor, just to make sure, defense committed to
6 getting us his witness list on Monday? I just want to make
7 sure the record is clear.

8 MR. MERINGOLO: No, we never committed to do that.
9 Best guesstimate, by Wednesday.

10 MR. SOBELMAN: On the same timeline as the exhibits?

11 MR. MERINGOLO: Yes. The best we could do by
12 Wednesday we're going to do, exhibits in the morning, Judge.

13 THE COURT: Your Honor, will 26.2 material be produced
14 on the same time frame?

15 MR. MERINGOLO: We said Monday.

16 MR. SOBELMAN: There are no further issues from the
17 government at this time.

18 Thank you, your Honor.

19 MS. CAPPELLINO: Thank you, Judge.

20 THE COURT: So we are going to start on time at
21 9:00 a.m. on Monday the 16th. I will not have the panel
22 immediately at 9:00 a.m., so we can do the allocution and take
23 care of any housekeeping before we start the voir dire.

24 MS. CAPPELLINO: Thank you, Judge.

25 THE COURT: I wish all of you good health and I will

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1 see you on the 16th.

2 Thank you.

3 (Adjourned)

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